



# National Association of SARA Title III Program Officials

*Concerned with the Emergency Planning and Community Right-to-Know Act*

August 4, 2009

*Electronically Submitted – via e-mail.*

Chemical Safety and Hazard Investigation Board  
Office of General Counsel  
Attn: C. Kirkpatrick  
2175 K St NW, Ste 650  
Washington, DC 20037

Re: Comments to Docket No. CSB-09-01

Dear CSB:

The National Association of SARA Title III Program Officials (NASTTPO) is made up of members and staff of State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs), various federal agencies, and private industry. Members include state, tribal, or local government employees as well as private sector representatives with Emergency Planning and Community Right to Know (EPCRA) program responsibilities, such as health, occupational safety, first response, environmental, and emergency management. The membership is dedicated to working together to prepare for possible emergencies and disasters involving hazardous materials, whether they are accidental releases or a result of terrorist attacks. Thank you for the opportunity to comment on this proposal.

NASTTPO supports this effort. We believe that adoption of a chemical release reporting regulation specific to the mission of CSB is required by the Clean Air Act and would be useful and appropriate to the activities of the CSB.

We are mindful of some practicalities that inform our comments below:

- CSB has limited resources and cannot investigate all or even most chemical accidents that result in fatalities, serious injuries or substantial property damage as required by the Clean Air Act.

- There already are numerous release and accident reporting regimes adopted by various government agencies and meaningless duplication should be avoided.
- An accident reporting regulation adopted by CSB must improve its ability to choose which accidents to investigate in comparison to the current approach of tracking media reports.

In our view the greatest value from CSB investigations comes from examination of accidents covering a wide range of industries and a wide range of scenarios. The CSB investigation videos represent the best work being done in government to describe accident scenarios and educate industry, emergency planners, first responders and the public on how accidents may be prevented and how accident response may be improved. It would be a mistake to focus just on “targeted” industries because most communities in the country would not find those industries in their communities.

Looking at investigations conducted to this point, we believe that those involving common facilities and common materials are very valuable. This avoids the tendency to ignore the familiar facilities present everywhere which nonetheless have the potential to kill and injure workers, responders and the public. It would also be a mistake to focus just on accidents involving air releases currently reported under CERCLA, EPCRA and other chemical release threshold based programs. Such an approach with focus on specific chemical lists and/or specific release amounts would have missed the extremely valuable investigations conducted by CSB on propane releases and dust explosions.

Of the four suggested approaches in the ANPR we support number 3. As noted above the targeted industry approach would unnecessarily limit CSB’s focus. The comprehensive approach gathers data without a focus on improving the ability of CSB to select accidents for investigation. The chemical release threshold approach is duplicative and not focused on the information needed by CSB to select accidents for investigation. As noted in the ANPR, the quantity and type of chemical released does not necessarily correlate to fatalities, serious injuries or significant property damage.

We have considered two approaches to the question of which sorts of chemical releases should be reported. In both cases the report would only be required if hospitalization or death occurs and would not be dependent upon the volume released. The first option is for the regulation to require reports to the NRC for any release of a OSHA hazardous chemical for which an MSDS is required. The second option would be to require the report for the release of a chemical appearing on the EPA "List of Lists".

In both cases the objective is to rely on existing chemical regulatory programs. It is not necessary to create a new list of chemical materials given the extensive regulatory programs EPA and OSHA have already put in place. Both approaches rely on the existing EPCRA program in order to minimize the burden to facilities and we believe that most facilities will not need to do anything new from a management point of view save being cognizant that should they experience a release causing a death or injury serious enough to require hospitalization, an additional phone call or on-line report to the NRC will be required. This is a very minimal burden in our view.

We think that report should occur within 2 hours of the release when a death or hospitalization occurs contemporaneously with the release. More importantly the regulation should also require a report within a short period of time following the death of any person injured during the release. We believe this is important in order to capture those events that do not immediately result in a death or a seeming serious hospitalization. We do not believe that the current media monitoring system is always likely to note these deaths.

A caveat is important. We believe this death report should only be required of facilities regarding their employees or contractors. Our view is that deaths or serious injuries among first responders or members of the public will be well covered by the media, so we do not believe that regulation is necessary to obtain this information.


Other industrial accidents where chemical releases are not involved will be more difficult to capture without simply duplicating existing programs or creating reporting burdens that will potentially flood CSB with information that cannot be managed. The events that will be of interest to CSB, such as dust explosions, will tend to be catastrophic or involve several deaths and injuries. These events are likely to be well covered by the media. In our view the existing media-based identification program followed by direct inquiry will be the most successful approach to accidents such as these.

Our suggestions admittedly do not create a “perfect” system capturing all possible scenarios where CSB might have jurisdiction to investigate. We have attempted to balance the benefits to be obtained from CSB accident investigations, given limited resources to manage data and a desire to prioritize investigations to create the greatest value, without unduly increasing the reporting burden on facilities.

Congress has not seen fit to fund CSB at a level which would allow investigations of all chemical accidents involving fatalities, serious injuries or substantial property damage. As a result CSB is forced to prioritize its investigations and we believe the agency has done well in this regard producing a wide range of investigation reports broadly relevant to communities and facilities across the country. A reporting regulation should enhance this effort rather than capture the universe.

The approach we are suggesting should present the lowest level of industry education and compliance assistance. Facilities already understand they have release reporting obligations for listed chemicals and should have release reporting programs in place. Adding a requirement to report these very serious releases when deaths or hospitalizations occur, regardless of quantity involved, should not be difficult to understand or implement.

Thank you.

A handwritten signature in black ink, appearing to read 'Timothy R. Gablehouse', written in a cursive style.

Timothy R Gablehouse  
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